

REMARKS

Informalities.

Allowable Subject Matter. Claims 5-9, 12-14, 21-25, 28-30, 36-40 and 43-45 stand objected to as being dependent upon a rejected base claim. As discussed below, independent claims 1, 16 and 31 have been amended to incorporate the limitation that the authenticating biometric value is adaptably weighted, in accordance with the Examiner's suggestion. Such claims are thus novel and non-obvious in light of the cited art. Claims 5, 21 and 36 have been cancelled as the limitations referenced therein are now incorporated into the base claims from which they depend. As claims 4-9, 12-14, 21-25, 28-30, 36-40 and 43-45 also depend from independent amended claims 1, 16 and 31, such claims are now in condition for allowance.

Claim Rejections under 35 U.S.C. § 103.

Claims 1-4, 10-11, 15-20, 26-27, 31-35 and 41-42 stand rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Pat. No. 6,256,737 to Bianco ("Bianco") in view of EP 1081632 A1 to Keyware ("Keyware") and U.S. Pat. No. 5,892,824 to Beatson ("Beatson").

An invention is unpatentable under 35 U.S.C. § 103(a) ("Section 103") "if the differences between the subject matter sought to be patented over the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains."

To establish a *prima facie* case of obviousness, three criteria must be met. "First, there must be some suggestion or motivation . . . to modify the reference or to combine reference teachings.

Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.” MPEP § 2142.

As the Examiner has indicated, the step of weighting an authenticating biometric value which allows the biometric value to be adaptably weighted is neither disclosed nor suggested by the prior art of record. Claims 1, 16 and 31, as amended, each recite the step of “adaptably weighting the biometric value.” These amendments add no new subject matter as they are sufficiently disclosed by the specification originally filed. Claims 1, 16 and 31 are thus allowable over the prior art of record under Section 103.

As claims 2-4, 10-11, 15, 17-20, 26-27, 32-35 and 41-42 depend from otherwise allowable subject matter, these claims are also not rendered obvious by the cited references under Section 103.

Accordingly, Applicant respectfully requests withdrawal of the rejections of claims 1-4, 10-11, 15-20, 26-27, 31-35 and 41-42 under Section 103.

Conclusion


Based on the foregoing, Applicant believes that the claims of the present invention are in condition for allowance and respectfully requests the same.

Should the Examiner have any questions, comments, or suggestions in furtherance of the prosecution of this application, the Examiner is invited to initiate a telephone interview with undersigned counsel.

DATED this 15 day of July, 2003.

Respectfully submitted,

HIRTON & McCONKIE


Michael F. Krieger
Attorney for Applicant
Registration No. 35,232

1800 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111
Telephone: (801) 321-4814
Facsimile: (801) 321-4893

AVN
690522.1

VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

1. (Amended) A method for calibrating a biometric authentication device over time comprising the steps of:

obtaining an authenticating biometric value from an actual biometric measurement;

adaptably weighting the authenticating biometric value; and

integrating the adaptably weighted authenticating biometric value into an authenticating template.

16. (Amended) A device employing a biometric access system, said access system being adaptable to changes in a user's biometric over time, said device adapting to said changes by using the steps of:

obtaining an authenticating biometric value from an actual biometric measurement;

adaptably weighting the authenticating biometric value; and

integrating the adaptably weighted authenticating biometric value into an authenticating template.

31. (Amended) A computer readable medium containing instructions for controlling calibration of a biometric marker for use in a biometric authentication device, by:

obtaining an authenticating biometric value from an actual biometric measurement;

adaptably weighting the authenticating biometric value; and

integrating the adaptably weighted authenticating biometric value into an authenticating template.